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SENATE

REPORT
99-457

AUTHORIZING A MEMORIAL TO FRANCIS SCOTT KEY

SEPTEMBER 19 (legislative day, SEPTEMBER 15), 1986.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 2370]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2370), to allow the Francis Scott Key Park Foundation, Incorporated to erect a memorial in the District of Columbia, having considered the same, reports favorably thereon with an amendment to the text and an amendment to the title and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Strike all after the enacting clause and insert in lieu thereof:

SECTION 1. That the Francis Scott Key Park Foundation, Inc. is authorized to erect a memorial on public grounds in the District of Columbia in honor and in commemoration of Francis Scott Key, the author of the words to "The Star Spangled Banner," our National Anthem, who lived and practiced law in Washington, District of Columbia at the time he penned those immortal words.

SEC. 2. (a) The Secretary of the Interior is authorized and directed to select, with the approval of the Commission of Fine Arts and the National Capital Planning Commission, a suitable site on public grounds in the District of Columbia upon which may be erected the memorial authorized in the first section of this Act.

(b) The design and plans for such memorial shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission.

(c) Neither the United States nor the District of Columbia shall be put to any expense in the establishment of the memorial.

SEC. 3. The authority conferred by this Act shall lapse unless (1) the erection of the memorial is commenced within five years from the date of enactment of this Act, and (2) prior to groundbreaking for the actual construction on the site funds are determined available in an amount sufficient, in the judgment of the Secretary of the Interior, to insure completion of the memorial.

SEC. 4. If the site for the memorial authorized herein shall be on public grounds belonging to or under the jurisdiction of the District of Columbia, the words "Mayor of the District of Columbia" shall be substituted for the words "Secretary of the In-

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terior" at each place in sections 2 and 3 of this Act where the words "Secretary of the Interior" appears.

SEC. 5. In the event that the memorial authorized herein is erected on Federal lands in the District of Columbia and its environs as defined in H.R.4378, as approved by the Senate on September 10, 1986 (S. Rept. 99-421), such memorial shall be required to comply with the provisions of that Act.

SEC. 6. If the memorial erected under the provisions of this Act is on public grounds belonging to or under the jurisdiction of the District of Columbia, the Mayor of the District of Columbia shall be responsible for the care and maintenance of the memorial.

2. Amend the title so as to read:

A bill to authorize the Francis Scott Key Park Foundation, Inc. to erect a memorial in the District of Columbia.

PURPOSE OF THE MEASURE

S. 2370, as reported, would authorize the Francis Scott Key Park Foundation, Inc. to erect a memorial in the District of Columbia in honor of Francis Scott Key.

BACKGROUND AND NEED

Francis Scott Key, the author of the words to "the Star Spangled Banner" lived and practiced law in Washington, D.C. S. 2370, as reported by the Committee on Energy and Natural Resources authorizes the Francis Scott Key Park Foundation, Inc. to erect a memorial to Francis Scott Key on public grounds in the District of Columbia using private funds.

LEGISLATIVE HISTORY

S. 2370 was introduced by Senator Murkowski on April 24, 1986. The Subcommittee on Public Lands, Reserved Water and Resource Conservation held a hearing on the bill on August 4, 1986.

At a business meeting on September 17, 1986, the Senate Committee on Energy and Natural Resources ordered S. 2370, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on September 17, 1986, by unanimous voice vote of a quorum present recommends that the Senate pass S. 2370, if amended, as described herein.

COMMITTEE AMENDMENTS

The Committee amendment in the nature of a substitute modifies the language of S. 2370 to make the legislation comply with the commemorative work policy legislation approved by the Senate on September 10, 1986 (H.R. 4378, S. Rept. 99-421). See appendix for the text of H.R. 4378 as passed by the Senate on September 10, 1986. The amendment also ensures that if the site selected for the memorial is under the jurisdiction of the District of Columbia, the approval of the Mayor of the District of Columbia must be obtained.

The Committee amendment to the title modifies the title to better reflect the purpose of the bill.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 18, 1986.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 2370, a bill to authorize the Francis Scott Key Park Foundation, Incorporated to erect a memorial in the District of Columbia, as ordered reported by the Senate Committee on Energy and Natural Resources, September 17, 1986. Enactment of this bill is not expected to result in any cost to the federal government or to state or local governments. Section 2 of the bill would specify that no federal or District funds would be used in the establishment of the memorial.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

RUDOLPH G. PENNER.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2370. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 2370, as reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of the Interior setting forth executive agency recommendations relating to S. 2370 is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, August 14, 1986.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on S. 2370, a bill "To allow the Francis Scott Key Park Foundation, Incorporated, to erect a memorial in the District of Columbia."

We recommend the enactment of S. 2370, if it is amended as suggested below.

This bill would authorize the Francis Scott Key Park Foundation, Incorporated, to erect a memorial on public grounds in the District of Columbia in commemoration of Francis Scott Key, the author of the words to "The Star Spangled Banner." It authorizes the Secretary of the Interior to select a suitable site, with the approval of the Commission of Fine Arts and the National Capital Planning Commission, except that if the site selected is under the jurisdiction of the District Government, the approval of the Mayor should also be obtained. The design and plans for the memorial shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission, except that if approval or specific objection from any of the foregoing is not given within 90 days, the bill provides that such approval shall be deemed to be given. Authority to erect a memorial shall lapse unless erection of the memorial is commenced within five years from the date of the enactment of this legislation and unless funds are certified by the Secretary of the Interior as being available in an amount sufficient to insure completion of the memorial.

We recommended that the bill be amended to eliminate the requirement that approval or specific objection be obtained for the design and plans within 90 days or such approval will be deemed to have been given. The review and approval process should not be limited to a specific time frame, since the two Commissions only meet monthly and bimonthly, and submission must be provided to them 30 days prior to their meetings. We also recommend that language be added to clarify that if the memorial is established on National Park Service land, then the Secretary of the Interior is authorized to maintain it.

On November 14, 1985, the Secretary of the Interior's National Capital Memorial Advisory Committee recommended that the Department of the Interior support legislation to authorize the Foundation to erect a memorial to Francis Scott Key. We understand that the memorial will consist of a bust, which has already been fabricated, in a small landscaped setting. We would expect that the standards applicable to subject matter, site and design approval, maintenance fund, and criteria for construction contained in the general legislation, S. 2522, would apply to this proposed memorial. We believe considerations of the surroundings, protection of open space, the requirement for durable materials, and assurances of funding are all appropriate elements of the general bill that would be applied to the proposed Key memorial.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

P. DANIEL SMITH, *Deputy Assistant Secretary.*

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill, S. 2370, as reported.

APPENDIX

Reprinted below is the language of H.R. 4378, as approved by the Senate on September 10, 1986. The Act incorporates four amendments to the Committee-reported legislation offered on the Senate Floor.

H.R. 4378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PURPOSES

SECTION 1. The purposes of this Act are as follows:

(a) to preserve the integrity of the comprehensive design of the L'Enfant and McMillan plans for the Nation's Capital;

(b) to ensure the continued public use and enjoyment of open space in the District of Columbia;

(c) to preserve, protect and maintain the limited amount of open space available to residents of, and visitors to, the Nation's Capital; and

(d) to ensure that future commemorative works in areas administered by the National Park Service and the General Services Administration in the District of Columbia and its environs (1) are appropriately designed, constructed, and located and (2) reflect a consensus of the lasting national significance of the subjects involved.

DEFINITIONS

SEC. 2. As used in this Act—

(a) the term "Secretary" means the Secretary of the Interior;

(b) the term "Administrator" means the Administrator of the General Services Administration;

(c) the term "commemorative work" means any statue, monument, sculpture, memorial, or other structure or landscape feature, including a garden or memorial grove, designed to perpetuate in a permanent manner the memory of a person, group, event or other significant element of history. The term does not include any such item which is located within the interior of a structure or a structure which is primarily used for other purposes;

(d) the term "person" means an individual, group or organization authorized by Congress to establish a commemorative work in the District of Columbia and its environs;

(e) notwithstanding any other provision of law, the term "the District of Columbia and its environs" means those lands and properties administered by the National Park Service and the General Services Administration located in Areas I and II as depicted on the map numbered 869/86501, and dated May 1, 1986.

CONGRESSIONAL AUTHORIZATION OF COMMEMORATIVE WORKS IN THE DISTRICT OF COLUMBIA AND ITS ENVIRONS

SEC. 3. (a) No commemorative work may be established in the District of Columbia and its environs unless specifically authorized by Act of Congress. All such authorized commemorative works shall be subject to applicable provisions of this Act.

(b) In considering legislation authorizing commemorative works within the District of Columbia and its environs, the appropriate congressional authorizing Committees shall solicit the views of the National Capital Memorial Commission.

NATIONAL CAPITAL MEMORIAL COMMISSION

SEC. 4. (a) The National Capital Memorial Advisory Committee as established by the Secretary is redesignated as the National Capital Memorial Commission. The membership of the Commission shall be expanded to include:

Director, National Park Service (Chairman)
Architect of the Capitol
Chairman, American Battle Monuments Commission
Chairman, Commission of Fine Arts
Chairman, National Capital Planning Commission
Mayor, District of Columbia
Commissioner, Public Building Service, General Services Administration
Secretary, Department of Defense

(b) The National Capital Memorial Commission shall advise the Secretary and the Administrator on policy and procedures for establishment of (and proposals to establish) commemorative works in the District of Columbia and its environs, as well as such other matters concerning commemorative works in the Nation's Capital as it may deem appropriate. The Commission shall meet at least twice annually.

AVAILABILITY OF MAP DEPICTING AREA I AND AREA II

SEC. 5. The Secretary and the Administrator shall make available, for public inspection at appropriate offices of the National Park Service and the General Services Administration, the map numered 869/86501, and dated May 1, 1986.

SPECIFIC CONDITIONS APPLICABLE TO AREA I AND AREA II

SEC. 6. (a) AREA I.—In addition to conditions set forth in subsection (b) of this section, no commemorative work may be located in Area I unless the Secretary or Administrator (as appropriate), after consultation with the National Capital Memorial Commission, finds that the subject of the commemorative work is of preeminent

historical and lasting significance to the Nation. The Secretary or Administrator (as appropriate) shall notify the Congress of his determination that a commemorative work should be located within Area I. Unless the Congress enacts a joint resolution approving such determination within ninety days of such notification, the determination shall be deemed disapproved.

(b) AREA II.—Commemorative works of subjects of lasting historical significance may be located in Area II, subject to the following conditions:

(1) A military commemorative work may be established in Area II only to commemorate a war or similar major military conflict or to commemorate any branch of the Armed Forces. No commemorative work commemorating a lesser conflict or a unit of an Armed Force shall be permitted in Area II.

(2) A commemorative work commemorating an individual or group of individuals, other than a military commemorative work as described in subsection (b)(1) of this section, shall not be permitted in Area II until at least twenty-five years after the death of the individual or the last surviving member of the group.

(3) A commemorative work other than a work referred to in paragraph (1) or (2) may be constructed in Area II only to commemorate a subject of lasting historical significance.

SITE AND DESIGN APPROVAL

SEC. 7. (a) Any person authorized by law to establish a commemorative work in the District of Columbia and its environs shall comply with each of the following requirements before commencing construction of the commemorative work:

(1) Such person shall consult with the National Capital Memorial Commission regarding the commemorative work. Such consultation shall include consideration of potential sites in the District of Columbia and its environs.

(2) Following consultation in accordance with paragraph (1) of this section, such person shall submit site and design proposals to the Commission of Fine Arts and the National Capital Planning Commission and the Secretary or Administrator (as appropriate) for their approval.

(b) In considering site and design proposals, the Commission of Fine Arts, the National Capital Planning Commission and the Secretary and Administrator shall be guided by the following criteria:

(1) to the maximum extent possible, a commemorative work shall be located in surroundings that are relevant to the subject of the commemorative work;

(2) a commemorative work shall be so located as to prevent interference with, or encroachment upon, any existing commemorative work and to protect, to the maximum extent practicable, open space and existing public use; and

(3) a commemorative work shall be constructed of durable material suitable to the outdoor environment. Landscape features of commemorative works shall be compatible with the climate.

CRITERIA FOR ISSUANCE OF CONSTRUCTION PERMIT

SEC. 8. (a) Prior to issuing a permit for the construction of a commemorative work in the District of Columbia and its environs, the Secretary or Administrator (as appropriate) shall determine that:

(1) the site and design have been approved by the Secretary or Administrator (as appropriate), the National Capital Planning Commission and the Commission of Fine Arts;

(2) knowledgeable persons qualified in the field of preservation and maintenance have been consulted to determine structural soundness and durability of the commemorative work, and to assure that the commemorative work meets high professional standards;

(3) the person authorized to construct the commemorative work has submitted contracts for construction and drawings of the commemorative work to the Secretary or Administrator (as appropriate); and

(4) the person authorized to construct the commemorative work has available sufficient funds to complete construction of the project.

(b) In addition in the foregoing criteria, no construction permit shall be issued unless the person authorized to construct the commemorative work has donated an amount equal to 10 per centum of the total estimated cost of construction to offset the costs of perpetual maintenance and preservation of the commemorative work: *Provided,* That the provisions of this subsection shall not apply in instances when the commemorative work is constructed by a Department or agency of the Federal Government and less than 50 per centum of the funding for such work is provided by private sources.

(1) Notwithstanding any other provisions of law, any moneys provided by persons for maintenance pursuant to this subsection shall be credited to a separate account in the Treasury.

(2) Congress authorizes and directs that the Secretary of the Treasury shall make all or a portion of such moneys available to the Secretary or the Administrator at his request for maintenance of commemorative works. Under no circumstances may the Secretary or Administrator request funds from the separate account exceeding the total moneys deposited by persons establishing commemorative works in areas he administers. The Secretary and the Administrator shall maintain an inventory of funds available for such purposes: *Provided,* That such moneys shall not be subject to annual appropriations.

TEMPORARY SITE STUDY

SEC. 9. (a) Within one year after the date of enactment, the Secretary and the Administrator shall, in consultation with the National Capital Memorial Commission, prepare and transmit to the Congress a study assessing the need for establishing an area within the District of Columbia and its environs where commemorative works may be sited on a temporary basis.

(b) Such a study shall include but not be limited to recommendations regarding the need for such an area; the location; the criteria for placement of commemorative works; management and adminis-

tration of the area; and other factors as the Secretary and the Administrator deem appropriate.

MISCELLANEOUS PROVISIONS

SEC. 10. (a) Complete documentation of design and construction of each commemorative work located in the District of Columbia and its environs shall be provided to and permanently maintained by the Secretary or the Administrator (as appropriate).

(b) Any legislative authority for a commemorative work shall expire at the end of the five-year period beginning on the date of the enactment of such authority, unless the Secretary or Administrator (as appropriate) has issued a construction permit for the commemorative work during that period.

(c) Upon completion of any commemorative work within the District of Columbia and its environs, the Secretary or Administrator (as appropriate) shall assume responsibility for the maintenance of such work.

(d) The Secretary and the Administrator shall promulgate appropriate regulations to carry out this Act. The regulations shall be published in the Federal Register within one hundred and twenty days after the enactment of this Act.

(e) This Act shall not apply to commemorative works authorized by a law enacted before the commencement of the Ninety-ninth Congress.

Amend the title so as to read: "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes.".

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